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13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**
15

16 REALTIME ADAPTIVE
17 STREAMING LLC,

18 Plaintiff,

19 vs.

20 GOOGLE LLC, and YOUTUBE, LLC,

21 Defendants.
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Case No. 2:18-CV-03629-GW-JC

**DEFENDANTS' REQUEST FOR
JUDICIAL NOTICE REGARDING
MOTION TO DISMISS PORTIONS
OF PLAINTIFF'S COMPLAINT**

Date: August 27, 2018
Time: 8:30 a.m.
Courtroom: 9D
Judge: Hon. George H. Wu

1 Pursuant to Federal Rule of Evidence 201, Defendants request that the Court
2 take judicial notice of the following facts:

3 1. On April 3, 2018, the U.S. Patent and Trademark Office issued U.S.
4 Patent No. RE46,777 (the “Reissue Patent”), which is a reissue of U.S. Patent No.
5 8,634,462 (“the Original Patent”). This information is reflected on the face of the
6 Reissue Patent, which is attached hereto as Exhibit A. *See Colt Internat’l Clothing*
7 *Inc. v. Quasar Science, LLC*, 304 F. Supp. 3d 891, 892 (C.D. Cal. 2018) (granting
8 request for judicial notice of patents in connection with motion to dismiss and
9 noting that patent “prosecution materials are matters of public record and subject to
10 judicial notice under Fed. R. Evid. 201.”).

11 2. On February 2, 2016, Matthias Narroschke, one of the named inventors
12 of the Original Patent, filed a declaration with the U.S. Patent and Trademark
13 Office, which declared that the Original Patent is “wholly or partly inoperative or
14 invalid,” and requested that it be reissued. This information is reflected on the face
15 of the declaration, which is attached hereto as Exhibit B. *See, e.g., id.; Advantek*
16 *Marketing, Inc. v. Shanghai Walk-Long Tools, Co.*, No. 16-cv-3061-R, 2016 WL
17 9178079 at *1 (C.D. Cal. Nov. 3, 2016) (taking judicial notice of “patent’s
18 prosecution history from the USPTO website” in connection with motion to dismiss).
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20 DATED: July 16, 2018

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25 By: /s/ Ted Dane

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27 Attorneys for Defendants Google LLC and
28 YouTube, LLC

CERTIFICATE OF SERVICE

I certify that I caused the attached document to be filed using the Court's CM/ECF system and thereby served on counsel of record. I further certify that I have obtained the concurrence in the filing of this document by the above signatory.

DATED: July 16, 2018

/s/ Zachary M. Briers

Zachary M. Briers